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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.3503 OF 2003
IN
SUIT NO.1689 OF 2003

Bank of Baroda)).. Plaintiff

Versus

Alpic Finance Ltd.)).. Defendant

Mr.Satish M. Shah i/b.M/s.Little & Co. for the Plaintiff.

Mr.B.B. Parekh with Mr.A.W. Ansari for the Defendant.

Mr.S.Mallapurkar, Representative of Court Receiver, present.

CORAM : SMT. NISHITA MHATRE, J.

DATED : 13TH APRIL 2006

P.C.:

. This Motion has been taken out by the Plaintiff for appointment of the Court Receiver in respect of the properties described in Exhibits M-1 to M-13 to the Plaint.

2. It is the case of the Plaintiff Bank that the Suit has been filed by them in their capacity as trustees of the bond-holders of the bonds issued by the Defendant Company. Since November 2000, the Plaintiff started receiving complaints from the bond-holders that the Defendant had defaulted in making repayment of the Bonds on maturity. Besides, the Plaintiff has pleaded that various other defaults were committed by the

Defendant in respect of its obligation under the Trust Deed. According to the Plaintiff, a sum of Rs.44,79,35,424/- is the outstanding amount. The Plaintiff being the trustees of the bond-holders, seeks appointment of the Court Receiver in order to secure the amounts payable to the bond-holders. Defendant had stated that some amount has already been paid to the bond-holders. However, there are no receipts or statements provided by the Defendant. Although adjournments were granted only in order to enable the Defendant to give inspection of the relevant documents to the Plaintiff and to provide a statement regarding the payments made to the bond-holders, the Defendant Company has not bothered to furnish the same. In my view, this is a fit case where the Court Receiver must be appointed with all powers under Order 40 Rule 1 of the Civil Procedure Code in order to protect the rights of the bond-holders.

3. Hence, Notice of Motion made absolute in terms of prayer clauses (a) and (b).

4. The Court Receiver shall take possession of the suit properties mentioned at Exhibits M-1 to M-13 to the Plaint with the help of the police, if necessary.

5. Mr.Parekh seeks stay of this order for four weeks. Stay refused.

6. Motion disposed of accordingly.